



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



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SECRETARY FOR
ENVIRONMENTAL PROTECTION

ARNOLD SCHWARZENEGGER
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Certified Mail: 7003 1680 0000 6167 5448

May 23, 2008

Mr. Gary Erbeck, Director
Department of Environmental Health
County of San Diego
P.O. Box 129261
San Diego, California 92112-9261

Dear Mr. Erbeck:

The California Environmental Protection Agency (Cal/EPA), Department of Toxic Substances Control, and the State Water Resources Control Board conducted a program evaluation of the County of San Diego, Department of Environmental Health, Hazardous Materials Division Certified Unified Program Agency (CUPA) on April 23 and 24, 2008. The evaluation was comprised of an in-office program review, and field oversight inspections, by State evaluators. The evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff. The Summary of Findings includes identified deficiencies, a list of preliminary corrective actions, program observations, program recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that the County of San Diego, Department of Environmental Health, Hazardous Materials Division CUPA's program performance is satisfactory with some improvement needed. To complete the evaluation process, please submit Deficiency Progress Reports to Cal/EPA that depict your agency's progress towards correcting the identified deficiencies. Please submit your Deficiency Progress Reports to JoAnn Jaschke every 90 days after the evaluation date. The first deficiency progress report is due on July 23, 2008.

Cal/EPA also noted during this evaluation that the County of San Diego, Department of Environmental Health, Hazardous Materials Division CUPA has worked to bring about a number of local program innovations, including: implementing an excellent pollution prevention program and an outstanding educational outreach and training program. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at jbohon@calepa.ca.gov.

Sincerely,

[Original signed by Don Johnson]

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosure

cc/Sent via email:

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cc/Sent via Email:

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Linda S. Adams
Secretary for
Environmental
Protection

California Environmental Protection Agency

Air Resources Board • Department of Pesticide Regulation • Department of Toxic Substances Control
Integrated Waste Management Board • Office of Environmental Health Hazard Assessment
State Water Resources Control Board • Regional Water Quality Control Boards



Arnold Schwarzenegger
Governor

Amended

CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS

CUPA: **County of San Diego**
Department of Environmental Health
Hazardous Materials Division

Evaluation Date: **April 23 and 24, 2008**

EVALUATION TEAM

Cal/EPA: **JoAnn Jaschke**
SWRCB: **Marcele Christofferson**
DTSC: **Frederick Thomas**

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. Questions or comments can be directed to JoAnn Jaschke at (916) 323-2204.

	<u>Deficiency</u>	<u>Corrective Action</u>
1	<p>Of the files reviewed, not all of the submittals required for a Permit to Operate, or other required submittals were found in all of the files. UPCFs are required to be retained for a minimum of five years. CUPAs are also required to collect, retain and manage any additional information required by state or federal law.</p> <p>In general, the required submittals are UPCF forms A, B, C, D (monitoring plan), response plan, site plot plan, owner certificate of compliance, designated operator certification, certificate of financial responsibility and supporting documentation, if applicable. One or more of these elements were missing from the files reviewed.</p> <p>HSC 25286(a); CCR T27 15185 CCR Title 23, section 2711(a) [SWRCB]</p>	<p>By June 24, 2008, the CUPA will provide an action plan for ensuring that submitted documents are incorporated into the files. The CUPA will update CalEPA on the implementation of this plan every 90 days.</p>
2	<p>The CUPA is not ensuring that the facilities subject to the annual inventory submittal submit updated inventories or certify that there is no change in their</p>	<p>By July 24, 2008, the CUPA will develop and begin implementing an action plan for ensuring facilities have</p>

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	<p>inventory. 32% of the facilities (including agriculture facilities) have not submitted certifications or updates in 2007 or 2008. Approximately half of these facilities are single item or auto repair facilities. In 2007, 515 facilities were cited for failing to maintain business plans or certify that there is no change to their business plan.</p> <p>HSC, section 25503.3 (c) and 25505 (d) [Cal/EPA]</p>	<p>submitted updated inventories or certification that there is no change in their inventories. The CUPA will also update Cal/EPA on the progress of implementing the action plan, until Cal/EPA determines the deficiency has been corrected in the deficiency progress reports.</p>
3	<p>The CUPA is not citing violations in a manner consistent with the definitions of minor, Class II or Class I as provided in law and regulation.</p> <ol style="list-style-type: none"> 1) Specialized Processing Co., Inc – 8/5/04 inspection indicated three violations that were found again during the 5/25/05 fix-it inspection and again during 8/22/06 compliance inspection. The level of violation is unclear from the most recent inspection report but these should be Class II violations. 2) Specialized Processing Co., Inc. – 8/22/06 inspection also indicated a violation of the facility not having a closure plan. This is also at least a Class II violation per the CUPA's Inspection and Enforcement Program and Plan. <p>CCR, Title 27, section 15200(a)(8) HSC, section 25404(a)(3)(C) CCR, Title 22, section 66260.10 [DTSC]</p>	<p>By July 24, 2008, the CUPA will ensure that staff is trained and familiar with the statutory and regulatory definitions for the different hazardous waste violation classifications.</p>
4	<p>The CUPA is inconsistently documenting that all facilities that have received a Notice to Comply citing minor violations have returned to compliance within 30 days of notification. During the file review it was observed that only one out of seven files had a Return to Compliance form submitted to the CUPA. In one instance, a written letter from a facility owner was accepted as evidence of return to compliance, although there was no supporting documentation.</p> <p>CCR, Title 27, section 15200(e) HSC, section 25187.8(g)(1) [DTSC]</p>	<p>By May 24, 2008, the CUPA will ensure that facilities who are cited for minor violations during hazardous waste inspections have either submitted the CUPA's Return to Compliance form or its equivalent within the required corrective action date.</p>

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5	<p>The CUPA's Inspection and Enforcement Plan does not identify all the available enforcement options. The plan does not mention cease and desist order or red tag as enforcement options.</p> <p>CCR, Title 27, section 15200(a)(6) [SWRCB, Cal/EPA]</p>	<p>The CUPA corrected this deficiency by updating their Inspection and Enforcement Plan to include all available enforcement options.</p>
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CUPA Representative

J. M. Vizzier
(Print Name)

Original signed
(Signature)

Evaluation Team Leader

JoAnn Jaschke
(Print Name)

Original signed
(Signature)

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PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations provided in this section address activities the CUPA is implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute

1. **Observation:** In the facility inspection reports reviewed signed consent to inspect by the facility owner/operator was not documented. Signed consent on the inspection report is important because it strengthens any potential enforcement case against a noncompliant facility.

Recommendation: Document consent granted for all facility inspections by having the owner/operator sign a consent portion of the inspection report or note the time consent was given in the report.

2. **Observation:** The CUPA's inspection report does not have space to record the classification of a violation, nor is this indicated by the inspector anywhere in the report.

Recommendation: Although it is understood by the CUPA that a Notice to Comply is for minor violations, the CUPA may want to have inspectors note the classification of each violation on all inspection reports to clarify which violations are not subject to formal enforcement.

3. **Observation:** The CUPA is maintaining their employee's training records in two locations on two separate databases by two divisions. Human Resources utilizes a learning management system (SUM Total) while the CUPA staff utilize Access to maintain training records for 80 employees. The Access database has a limited amount of searching and reporting functions while the SUM Total database has a robust searching and reporting capability.

Recommendation: The CUPA should track their employee's training records in a consolidated manner to eliminate the duplication in data entry, database management, and inconsistencies between the two databases.

4. **Observation:** The Ag Commissioner inspects and regulates agriculture facilities subject to the Business Plan program. Additionally, the Ag Commissioner provides the chemical inventory, facility maps, and emergency contact information to the CUPA. The CUPA tracks this information in their database. The CUPA inspects and regulates agriculture facilities subject to the hazardous waste program.

Recommendation: The CUPA should update their existing agreement with the Ag Commissioner to ensure there is a mutual understanding of the program implementation, roles, and responsibilities to ensure a uniform approach.

5. **Observation:** The CUPA staff has access to a camera; however, during the file review, it was evident that photographs were not taken during inspections.

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Recommendation: Photographs are useful to document violations and the conditions at facilities at the time of the inspection. Date stamped photographs could help strengthen your case should enforcement become necessary.

6. **Observation:** In some of the Inspection Reports, the Receipt of Report has not been signed by the owner/operator of the facility. Also, some of the Inspection Reports checklists are being used inconsistently; sometimes the boxes are checked, other times not.

Recommendation: The CUPA should verify that the Receipt of Report is signed by the owner/operator of the facility and use the Inspection Report checklists consistently.

7. **Observation:** The Inspection reports cite Chapter 6.5, 6.7, 6.95 etc. but does not cite 6.75.

Recommendation: SWRCB recommends that on the next compliance inspection report revision, to add 6.75 to the list of Health and Safety Code citations.

8. **Observation:** The inspection and enforcement plan showed three options for showing violations for non-HW violations: CIR, Official Notice and NOV. For HW a NTC is for minor violations. That is the only violation option noted.

Recommendation: SWRCB recommends that the CUPA review the inspection and enforcement plan and update / clarify the violation mechanisms. Consider using the same nomenclature for all violations regardless of program.

9. **Observation:** Although inspectors review monitoring, response and plot plans and issue operating permits based on these plans, there are no SOP's for approving such plans.

Recommendation: SWRCB recommends that SOP's be developed for reviewing monitoring, response and plot plans for all required elements and approving such plans.

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EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. The CUPA utilizes an Environmental Management System to effectively implement their Unified and Medical Waste Programs. The system allows the CUPA to establish strategic and operation goals that are in seek with the overall mission of the Unified Program, Department of Environmental Health, and Hazardous Materials Division. In addition, the system provides the CUPA with a mechanism for establishing and achieving annual performance measures, making continues improvements to their programs, and encouraging successes.
2. Public and stakeholder participation within the CUPA program is impressive. The chemical inventory of businesses is available on the CUPA's Web site. During a six month period, approximately 10,000 people accessed this information. Additionally, the County of San Diego has an Environmental Health Advisory Board consistency of internal and external stakeholders that advise and provide recommendations to the Department of Environmental Health.
3. The CUPA implements an outstanding educational outreach and training program. For examples, the CUPA has developed the following publications and implements the following programs:
 - The CUPA created and made available, a plating shop compliance manual to facilities in this industry making compliance easier and more effective;
 - The CUPA conducted twenty outreach presentations to 1300 students in their Motivation, Rewards and Recognition Program. This allows young people to learn about and become involved in public and environmental health at a younger age;
 - UST Compliance Manual for independent facility owners is an excellent tool for UST compliance;
 - Hazardous waste compliance guide for auto dismantlers in English and Spanish;
 - Ammonia safety guide;
 - County Newsletters – Environmental Press
 - Online training programs – “Top Ten Violations for the Biotech Industry”, “Hazardous Waste”, “Hazardous Materials Violations”, “Medical Waste Violations”;
 - Biotech compliance improvement program - If a Biotech facility annually passes the evaluation for this training and has two or fewer minor violations their permit fees are reduced by 25% and their inspection frequency is reduced from once every 18 months to once every 36 months;
4. The CUPA implements an effective formal enforcement program. The CUPA coordinates and discusses enforcement activities within their division, department, and other departments within the County of San Diego as well as with other local, state, and federal agencies and Mexico. CUPA staff meets monthly to discuss open cases. As of April 24, 2008, the CUPA has 53 open cases. Bi-monthly, the CUPA staff meets with the Land Use Environmental Group (which includes: Air Pollution Control District, Agriculture Weights and Measures, Environmental Health, Farm and Home Advisor, Parks and Recreation, Planning and Land Use, and Public Works) to discuss enforcement activities. This group unifies the County of San Diego's efforts in environmental preservation, quality of life, economic development, recreation and infrastructure development and maintenance. The CUPA also participates in Environmental Task Forces, Inspection and Enforcement Workgroups, U.S. – Mexico Partnership Program, California/Baja Regional

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Workgroup. In FY 04/05 the CUPA collected \$680,500 in fines and penalties. In FY 05/06 the CUPA collected \$424,361, and in FY 06/07 the CUPA collected \$308,636. On average, the CUPA settles approximately 40 formal enforcement cases yearly. The CUPA effectively utilizes alternative settlement agreements to help ensure facilities maintain better compliance. For example, one settlement required the facility to 1) Send 3 staff to compliance school, 2) Send 5 staff to designated operator training, 3) Install enhanced monitoring equipment at a second station, and 4) Install tamper resistant sensors in all sumps and UDCs. Lastly, articles on three enforcement settlements were featured in The San Diego Union Tribune.

5. The CUPA has an excellent Pollution Prevention Program. The program provides assistance to small businesses in incorporating pollution prevention into their operations. The CUPA works with industry associations, small business, non-profits, state and local governments, and the Negocio Verde Task Force. The CUPA conducts workshop for the Auto Service Industry explaining common violations and how to eliminate those violations within their shop. The CUPA incorporates a pollution prevention element to their educational outreach and training material. The CUPA developed a fact sheet on eliminating mercury in schools. The CUPA identifies areas where the facilities have a high number of violations and targets the small businesses within those areas. The CUPA maintains a pollution prevention Web page that links to approximately 20 technical pollution prevention resources. The CUPA's Pollution Prevention Specialist helps small businesses by: providing informational materials and resources, conducting personalized training workshops geared toward a particular facility, meet with individual businesses to provide them with an individual business needs assessment in a non-enforcement capacity, evaluate existing and future pollution prevention approaches through baseline and trend analysis. Recently, the CUPA worked with the Department of Parks and Recreation with the County of San Diego to reduce the amount of waste oil generated within the fleet division. The CUPA is currently working with boaters and marinas to reduce the amount of hazardous waste generated within the boating community.
6. Juan Fernandez conducted a thorough and excellent inspection. He should be commended for a job well done.
7. The CUPA conducted a complete inspection during their evaluation, citing appropriate violations with applicable standards in a professional, well prepared and knowledgeable manner.